



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-1122

Certain Convertible Sofas and Components Thereof

Commission Determination Not to Review the Final Initial Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined not to review the final initial determination (“ID”) in the above-captioned investigation finding no violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 337 (“Section 337”). The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On July 13, 2018, the Commission instituted the present investigation based on a complaint filed by Sauder Manufacturing Co. of Archbold, Ohio. 83 FR 32686 (July 13, 2018). The complaint alleges a violation of Section 337 has occurred through the importation into the United States, sale for importation, and sale within the United States after importation of certain convertible sofas that purportedly infringe Sauder's U.S. Design Patent No. D716,576 ("the D'576 patent"). *Id.* The Commission's notice of investigation named Krug, Inc. ("Krug") of Kitchener, Ontario, Canada, as the sole respondent. *Id.* The Office of Unfair Import Investigations was not named as a party. *Id.*

The presiding administrative law judge ("ALJ") set the target date for completion of this investigation for November 13, 2019 (16 months). Order No. 3 (July 27, 2018). The ALJ scheduled the evidentiary hearing for March 18-22, 2019 and the deadline for issuing the final ID for July 12, 2019. Order No. 4 (Aug. 3, 2018). The parties, in response to an inquiry from the ALJ, subsequently agreed that the issues in this investigation could be resolved with a hearing on the briefs rather than a live evidentiary hearing. *See* Joint Statement Stipulating to a Hearing on the Briefs and Corresponding Proposed Procedural Schedule (Nov. 9, 2018). The ALJ adopted their recommendations, with some revisions, and scheduled a hearing for March 19, 2019, to hear the parties' arguments on their submissions. Order No. 5 (Nov. 19, 2018). The ALJ did not change the deadline for issuing the final ID or the target date for completion of the investigation. *Id.*

On July 12, 2019, the ALJ issued the final ID, which finds that: (1) the accused Krug convertible sofas do not infringe the D'576 patent; (2) prosecution history estoppel bars Sauder from accusing Krug sofas with soft top arms of infringing the D'576 patent; and (3) the D'576 patent claim is invalid under 35 U.S.C. 112 for lack of written description. ID at 18, 34, 54, 58.

The ID concludes that importation of the accused Krug products does not violate Section 337.

Id. at 1, 58.

No party filed a petition to review the subject ID. The Commission has determined not to review the subject ID. The investigation is hereby terminated.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

Issued: August 19, 2019
By order of the Commission.

Lisa Barton
Secretary to the Commission
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